IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 02.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Writ Appeal No.1717 of 2002
& WAMP No.2970 of 2002

1.C.D.Ramalingam

2.C.D.Gopal

3.C.D.Chockalingam

4.C.D.Jayagopal

5.A.Chandraprabha

6.Vidya Saram

7.A.Sathyanarayanan ... Appellants/Petitioners

Vs.

1.The District Collector,
Kanchipuram.

2.The District Revenue Officer,
Kanchipuram.

3.The Revenue Divisional Officer,
Madurantakam,
Kanchipuram District.

4.The Tahsildar,
Madurantakam.

5.V.N.Raghupathi. Respondents/Respondents

Writ appeal filed under Clause 15 of the Letters Patent agains the order dated 04.04.2002 made in W.P.No.11300 of 2002 presented t this Court under Article 226 of the Constitution of INdia to issue Writ of Certiorari calling for the records of the records of the I respondent in Na.Ka.No. 52579/2000/H1 dated 11.12.2001 quash the same.

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For Appellant : Ms.Emily Venkatesan for
Mr.T.R.Rajaraman, S.C.,

For respondents 1 to 4 : Mr.K.Elango,
Special Government Pleader

For 5th respondent : Mr.A.Venkatesan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order date 04.04.2002 made in W.P.No.11300 of 2002, in and by which, th learned single Judge, after observing that the matter is to b agitated only before the Civil Court, has disposed the writ petitio by affording such opportunity.+

2. Heard the learned counsel appearing for the appellants a well as the respondents.

3. The only grievance of the appellants is that though notice ha been sent asking them to appear on 10.12.2001 at 4.00 p.m., before th District Revenue Officer, Kanchipuram (the second respondent herein) according to them, the said notice was received only on 22.12.2001 It is also brought to our notice that the endorsement on the envelop shows that notice itself posted only on 20.12.2001 by ordinary pos at Kanchipuram. By contending so, it is the grievance of th appellants/writ petitioners that they were not heard by the Distric Revenue Officer before passing the order on 11.12.2001.

4. In view of the above contention, we have verified th materials placed before us. In the affidavit filed in support of th writ petition, particularly in para 5, there is specific assertio viz., that the intimation was received by the appellants/petitioner only on 22.12.2001, however the notice shows that they have to appea before the District Revenue Officer, Kanchipuram, on 10.12.2001 a 4.00 p.m. The said aspect viz., failure to afford reasonabl opportunity, was though projected before the learned single Judge the same has not been adverted to and instead the learned singl Judge, taking note of the dispute between the appellants-petitioner and the contesting fifth respondent, has dismissed the writ petitio with liberty to approach the competent Civil Court to vindicate thei grievance.

5. The learned counsel appearing for the fifth respondent b drawing our attention to the decision of a Division Bench of thi Court reported in 1995 The Madras Law Journal Reports 42

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(KUPPUSWAMI NAINAR VS. THE DISTRICT REVENUE OFFICER, THIRUVANNAMALA AND OTHERS), has submitted that in view of the dispute between th appellants/petitioners and the fifth respondent, ultimately it is fo the Civil Court to decide and the Revenue Authorities cannot arriv at any conclusion over the issue in question. We are not disputin the above preposition. However, as rightly pointed out by th learned counsel for the appellants/petitioners when hearing wa fixed for 10.12.2001 at 4.00 p.m., it is but proper on the part of th authority to issue notice to all the parties in advance. In the cas on hand, we have already referred to the assertion of th appellants/petitioners that the said notice mentioning the hearin date as 10.12.2001 was received by their counsel only on 22.12.2001 In view of such assertion and in the absence of any other contr material, we are of the view that the appellants/petitioners ar entitled to an opportunity of being heard before the District Revenu Officer, Kanchipuram. Ultimately, if any decision is arrived, th aggrieved party/parties are free to approach the Civil Court a observed by the learned single Judge as well as the decision of th Division Bench referred to above. In these circumstances, we se aside the order of the learned single Judge dated 04.04.2002 mad in W.P.No.11300 of 2002 as well as the order of the District Revenu Officer, Kanchipuram dated 11.12.2001 and remit the matter to th District Revenue Officer, Kanchipuram, for fresh disposal afte affording opportunity to all the parties concerned.

6. The writ appeal is allowed to the above limited extent. N costs. Consequently, WAMP No.2970 of 2002 is closed.

raa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector,
Kanchipuram.

2.The District Revenue Officer,
Kanchipuram.

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3.The Revenue Divisional Officer,
Maduranthakam,
Kanchipuram District.

4.The Tahsildar,
Maduranthakam.

1 CC TO MR.T.R. RAJARAMAN, SR 178

1 CC TO MR.A.Venkatesan, SR 50

1 CC TO G.P, SR 143

W.A.No.1717 of 2002

02.01.2007

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